

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL GRADIS,

Plaintiff,

v.

HENRY RICHARDS, *et al.*,

Defendants.

Case No. C04-5493FDB

ORDER ADOPTING REPORT &
RECOMMENDATION

Magistrate Judge Strombom filed her Report and Recommendation in this matter, concluding that this cause of action should be dismissed without prejudice for the reason that Plaintiff's issue herein was litigated and lost in *Ross v. Seling*, C99-5238RJB. The issue of when a "sexually violent predator" (SVP) evaluation takes place is properly a matter for the state courts.


Plaintiff files a response to the R&R, in which he appeals the Magistrate Judge's Order Denying Motion for Stay (Dkt. # 31), moves for enlargement of time to respond to the R&R(Dkt. # 32)(referred to incorrectly by Plaintiff as Dkt. # 31), and moves for recusal of Magistrate Judge Strombom. Plaintiff argues that the R&R was prematurely issued and references other "identical" cases raising the issue of admissions evaluations under Special Commitment Center (SCC) policy 301.

1 Plaintiff's arguments are without merit. Plaintiff's motion for additional time to respond is
2 without any basis, as Plaintiff has managed to present arguments on several issues as indicated above.
3 ACCORDINGLY,

4 IT IS ORDERED:

- 5 1. Plaintiff's Appeal of Dkt # 31 [Dkt. # 34] is DENIED;
- 6 2. Plaintiff's Motion for Enlargement of Time [Dkt. # 34] is DENIED;
- 7 3. Plaintiff's Motion for Recusal [Dkt. # 34] is DENIED;
- 8 4. The Court adopts the Report and Recommendation;
- 9 5. This action challenging the timing of an evaluation performed in connection with state
10 civil commitment proceedings is barred by the doctrine of *res judicata* as the issue
11 was dismissed by the Honorable Judge Robert J. Bryan in Ross v. Selig, C99-
12 5238RJB. Judge Bryan's finding that litigation of this issue violates the Rooker-
Feldman doctrine and the doctrine set forth in Heck v. Humphrey, 512 U.S. 477
(1994) was a final determination on the merits. Issue preclusion attaches to that
decision.
- 13 6. The action is **DISMISSED WITHOUT PREJUDICE**.
- 14 7. The Clerk is directed to send copies of this Order to plaintiff, counsel defendants, and
15 to the Hon. Karen L. Strombom.

16 DATED this 20th day of April, 2005.

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19 FRANKLIN D. BURGESS
20 UNITED STATES DISTRICT JUDGE
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